



Order Filed on March 3, 2023
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U.S. Bankruptcy Court
District of New Jersey

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

BLOCKFI INC., *et al.*,

Debtors.¹

Chapter 11

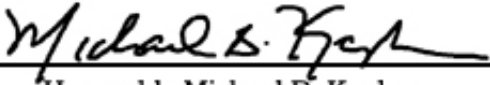
Case No. 22-19361 (MBK)

(Jointly Administered)

**STIPULATION AND ORDER BETWEEN THE
DEBTORS AND SILVERGATE BANK REGARDING SILVERGATE
BANK'S RELEASE OF FUNDS FROM THE RESERVE ACCOUNT**

The relief set forth on the following pages, numbered two (2) through five (5), is hereby
ORDERED.

DATED: March 3, 2023


Honorable Michael B. Kaplan
United States Bankruptcy Judge

(Page | 2)

Debtors: BLOCKFI INC., *et al.*

Case No. 22-19361 (MBK)

Caption of Order: Stipulation and Order Between the Debtors and Silvergate Bank Regarding Silvergate Bank's Release of Funds from the Reserve Account

This Stipulation (the "Stipulation" or "Order") is entered into by and between the undersigned counsel, acting for and on behalf of their respective clients: (a) the above-captioned debtors and debtors in possession (collectively, the "Debtors") and Silvergate Bank ("Silvergate" and together with the Debtors, the "Parties") to memorialize the agreements reached between the Debtors and Silvergate regarding the Silvergate Reserve Account (defined herein).

WHEREAS, on November 28, 2022 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of New Jersey (the "Court");

WHEREAS, before the Petition Date, BlockFi Inc. ("BlockFi") and Silvergate entered into that certain ACH Origination Agreement dated August 3, 2020 (the "ACH Origination Agreement") pursuant to which Silvergate agreed to act as an Originating Depository Financial Institution with respect to credit and/or debit entries initiated by BlockFi through Silvergate to accounts maintained at Silvergate and other depository financial institutions by means of the Automated Clearing House Network ("ACH");

WHEREAS, before the Petition Date, BlockFi and Silvergate entered into that certain ACH Security Agreement dated November 26, 2021 (the "ACH Security Agreement"), pursuant to which BlockFi agreed to establish a reserve in the amount of \$10 million as an assurance of its obligations arising under the ACH Origination Agreement (the "Silvergate Reserve Account");

WHEREAS, the ACH Security Agreement provides that the Silvergate Reserve Account will terminate on the date that is ninety (90) business days after the receipt of the last originated ACH transfer and the termination of the ACH Origination Agreement, and BlockFi shall thereafter have unrestricted access to the funds in the Silvergate Reserve Account.; and

(Page | 3)

Debtors: BLOCKFI INC., *et al.*

Case No. 22-19361 (MBK)

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WHEREAS, BlockFi's ACH transfer originations through Silvergate accounts have been suspended since November 17, 2022.

NOW, THEREFORE, IT IS STIPULATED, AGREED, AND UPON COURT APPROVAL, IT IS ORDERED THAT:

1. Silvergate shall immediately release \$9,850,000 from the Silvergate Reserve Account to an account designated by the Debtors.

2. Silvergate shall be entitled to hold the remaining \$150,000 in the Silvergate Reserve Account (the "Reduced Collateral Amount") to cover any ACH originations that are returned (the "Returned ACH Transfers") under the National Automated Clearing House Association ("NACHA") Rules and Guidelines up until the later of (x) the date that the Debtors terminate the ACH Origination Agreement and (y) November 17, 2024 (the "Termination Date"). The automatic stay is hereby lifted solely for the purpose of authorizing Silvergate to use funds in the Reduced Collateral Account to pay any such Returned ACH Transfers that are not paid by Debtors. Nothing contained in this paragraph shall be deemed to alter or amend Debtors' obligation to indemnify and repay Silvergate for any Returned ACH Transfers in accordance with the terms of the Parties' agreements and that certain *Final Order (I) Authorizing the Debtors to (A) Continue Use of Existing Business Forms and Records (B) Maintain Existing Corporate Bank Accounts and Cash Management System, (C) Pay Prepetition Bank Fees Associated with the Cash Management System, and (D) Continue Performance of Intercompany Transactions, (II) Granting Administrative Expense Status to Postpetition Intercompany Balances, and (III) Waiving Certain U.S. Trustee Requirements* entered on January 17, 2023 [Docket No. 306].

(Page | 4)

Debtors: BLOCKFI INC., *et al.*

Case No. 22-19361 (MBK)

Caption of Order: Stipulation and Order Between the Debtors and Silvergate Bank Regarding Silvergate Bank's Release of Funds from the Reserve Account

3. The Reduced Collateral Amount in the Silvergate Reserve Account shall be released to the Debtors within two (2) business days following the Termination Date.

4. Silvergate will be entitled to a contingent secured claim in the amount of the Reduced Collateral Amount until the earlier of (x) the Termination Date and (y) the date upon which the Parties agree that Silvergate is no longer entitled to hold the Reduced Collateral Amount, or the Reduced Collateral Amount is adjusted in accordance with the amount of ACH originations subject to return under the NACHA Rules and Guidelines, and will be deemed to have filed such claim in accordance with the *Order (I) Setting Bar Dates for Submitting Proofs of Claim, (II) Approving Procedures for Submitting Proofs of Claim, (III) Approving Notice Thereof, and (IV) Granting Related Relief* (Dkt. No. 440), without separately filing a proof of claim form.

5. If the Debtors determine to reinitiate ACH transfers through their Silvergate accounts, upon the completion of a renewed credit and underwriting review and approval by Silvergate, the Debtors and Silvergate will enter into new ACH origination agreements and negotiate an appropriate reserve to be established at such time, subject to Court approval during the pendency of these chapter 11 cases.

6. This Stipulation may be signed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Each person who executes this Stipulation on behalf of a Party hereto represents that he or she is duly authorized to execute this Stipulation on behalf of such Party.

7. This Stipulation represents the entire agreement between the Parties in respect of the subject matter hereof and shall not be modified, altered, amended, or vacated without the prior

(Page | 5)

Debtors: BLOCKFI INC., *et al.*

Case No. 22-19361 (MBK)

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Silvergate Bank's Release of Funds from the Reserve Account

written consent of the Parties. No statement made or action taken in the negotiation of this Stipulation may be used by any party for any purpose whatsoever.

8. Each Party represents and warrants to the other Party that it: (a) made this Stipulation freely and voluntarily and with full knowledge of its significance; and (b) has been represented by counsel of its own choice in the negotiations preceding the execution of this Stipulation and in connection with the preparation and execution of this Stipulation.

9. The terms and conditions of this Stipulation are immediately effective and enforceable upon entry of the Order.

10. The Debtors are authorized to take all actions necessary to effectuate the relief provided for in this Stipulation.

11. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Stipulation.

AGREED TO BY:

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